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Signature Page*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

WYATT B., *et al.*,

Plaintiffs,

v.

TINA KOTEK, *et al.*,

Defendants.

Case No. 6:19-cv-00556

**PLAINTIFFS' UNOPPOSED MOTION
TO REMOVE CLASS
REPRESENTATIVE "RUTH T."**

CERTIFICATION PER LOCAL RULE 7-1

Plaintiffs conferred with Defendants on May 22, 2024 and based on the representations contained in this motion, Defendants do not oppose the motion.

PLAINTIFFS' MOTION TO AMEND CAPTION

Plaintiffs move pursuant to Civil Rule 23 to remove “Ruth T.” as a representative for the class. The named plaintiff is over 18 years of age. She is living independently, but her housing has been inconsistent. Her current housing situation is tenuous. She has experienced trauma and does not enjoy revisiting her time in care. Since her transition to adulthood, she has maintained infrequent communication with counsel. In most recent communications, Ruth T. has agreed to the broad terms of the settlement agreement. However, in recent days, and due to her acute circumstances, she has declined, or otherwise been unable to engage further in communications with class counsel. Ruth T. has indicated general support for the settlement, and has further indicated that she wanted to give her “verbal approval” to the settlement agreement. However, she has not been able to arrange a time to discuss the settlement agreement in depth, or to sign the agreement. In light of the outstanding pressures on Ruth to keep out of homelessness, expecting her to engage extensively with the final settlement process is unrealistic.

Although Plaintiffs’ counsel has made extensive efforts to meet with and speak with their client, they regretfully believe she cannot currently participate meaningfully in the finalization of the settlement process. When a named plaintiff is no longer able to maintain communication with class counsel, they cannot serve as a class representative, nor “fairly and adequately protect the interests of the class. Fed. R. Civ. Pro. 23(a)(4); *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 566 (9th Cir. 2019) (requiring that named plaintiffs will “prosecute the action vigorously on behalf of the class”). Removal of a single named plaintiff in the process of executing a settlement

is permitted, when the class is adequately represented by remaining named plaintiffs, even after certification and during the settlement process. *See, e.g., Waldrup v. Countrywide Fin. Corp.*, No. 213CV08833CASAGRX, 2020 WL 1529257, at *2 (C.D. Cal. Mar. 30, 2020) (approving the removal of a named plaintiff in a class action in the settlement process); *Lancaster v. Tilton*, No. C79-01630 WHA, 2007 WL 1807953, at *2 (N.D. Cal. June 21, 2007) (same). In the present case, 9 of the 10 named plaintiffs have signed the settlement agreement. The nine plaintiffs can continue to represent the class adequately.

Since Ruth T. cannot participate in the matter as a class representative, Plaintiffs ask that she be removed as a class representative. The removal of one of ten class representatives does not alter the adequacy of representation in this matter.

DATED this 23rd day of May, 2024.

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